

Utah Antidiscrimination and Labor Advisory Council  
Meeting Minutes  
February 14, 2008  
12:05 pm to 1:15 pm  
Room 319

Council Members in attendance:

Sherrie Hayashi, Commissioner  
Heather Morrison, UALD Division Director  
Rick Thaler, General Public Representative  
Marty Blaustein, Tenant Representative  
Monica Whalen, Employer Representative  
Tony Montano, Employee Representative  
Robert Wilde, Employee Representative  
Ralph Chamness, General Public Representative

Commission Staff in attendance

Alan Hennebold, Deputy Commissioner  
Sara Danielson, Council Secretary  
Brent Asay, Wage Claim Unit Manager  
Hap Stephens, Fair Housing Case Manager

Not in attendance:

James Deans, Landlord Representative  
Jathan Janove, Employer Representative - Excused  
John Salazar Sr., Employee Representative  
Alison Draper, Tenant Representative  
Michael Styles, General Public Representative  
Keith Nielson, Landlord Representative  
John Chindlund, Employer Representative

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Commissioner Hayashi called the council meeting to order at 12:05 pm. Sherrie welcomed everyone.

Approval of Minutes for the Last meeting

Minutes of the November 11, 2007, meeting, were not available. This matter was tabled until next meeting.

Legislative Update

Sherrie asked Heather to give a quick rundown on the bills filed in the current legislative session which effect the Antidiscrimination and Labor Division. Sherrie asked that the council work toward being more involved in the proposal of, support of, or nonsupport of bills affecting the division in future legislative sessions.

1. **HB89** – Antidiscrimination act amendments (to add sexual orientation or gender identity)

This bill is being held in committee; and will most likely not be voted on during this legislative session.

**SB166** – Antidiscrimination act amendments (Lower number of employees; add military service as protected status.)

The bill that came out of committee only added military service as a protected class. All of the other changes in the original bill had been removed.

Bob made a motion that the council inform the legislature that it supports SB166 as it currently exists. Marty seconded.

Discussion was had.

Bob called the question.

Vote on Motion to report favorable recommendation. Those in favor: Bob, Marty, Tony and Ralph. Those opposed: Monica and Rick (procedural grounds). Majority supports informing the legislature that the council supports adding military service as a protected class.

2. **SB60** – Repealing Labor Commission responsibilities to oversee employment agencies.

Sherrie stated that the council has already voiced support for this bill. The bill has been passed out of the House and Senate, it is awaiting signature of the Governor.

3. **SB131** – Wage withholding for employee contributions (modifies provision related to the payment of wages to address when wages can be withheld or diverted.)

The bill has been passed out of the House and Senate, it is awaiting signature of the Governor.

4. **HB114** – Minimum wage provisions (to codify Utah's minimum wage)

This bill is being held in committee.

5. **HB98** – Utah Employment Verification Act (to modify provisions related to state affairs in general by conditioning certain economic incentives and procurement agreements on employer participation in a federal employee eligibility verification program.)

**HB257** – Employee Verification (Same)

These bills do not affect UALD. The Commission is watching because it effects employment.

Discussion was had.

Monica made a motion to inform the legislature that the council has concerns with these bills because of the possible discriminatory effect on employment (false report from e-verify – discrimination claim no safe harbor for employer). Bob seconded.

Vote – unanimous.

### Tip Rules

The subcommittee reported on their efforts with the tip rule. A copy of the proposed changes was distributed. They tried to make Utah's rule be more inline with the federal rule. The subcommittee left the matter of mandatory tip pooling arrangements up to the employer as to whether or not the arrangement was in writing. The employer is still required to notify the employees of the tip pooling arrangement.

Discussion was had on whether tip pooling arrangements should be in writing; who is included in the tip pool; and is there a difference in the definitions of tips, gratuity and commission.

Bob moved that the changes be adopted with the addition of :

I. A tip pool arrangement should be in writing and available to all employees.

Discussion of the additional language was had.

Bob amended motion that the changes be adopted with the change of:

E. Every employer intending to exercise the trip of gratuity credit must so inform each affected employee in writing at the time of hire.

Ralph seconded the motion.

Further discussion was held.

Bob amended his motion again. The tip credit and tip pooling arrangement must be in writing Ralph seconded.

Vote: Those in favor: Bob, Marty, Tony and Ralph. Those opposed: Monica and Rick.

Rick made a motion to have the Commission look at the language of the rule; particularly the use of the terms, tips, gratuities and commissions. Monica seconded. The vote was unanimous.

Bob stated that the structure of the rule is a bit odd.

Rick made the motion for the Commission to look at the rule as a whole, look for consistency, look at the substantive changes that the subcommittee recommends and make what changes are necessary. Bob seconded. The vote was unanimous.

Sherrie asked Brent, Heather and Alan, to work on the proposed change that the Commission will present at an open meeting. Copies of the proposed new language will be sent to the council as well as others that would be interested, prior to the open meeting. If the proposed language is ready it will be presented at the next open meeting which is scheduled for March 12, 2008 at 2:00 pm..

#### Uniform definition and UOSH PPE rule update

Brent reported that the subcommittee would reconvene after the open meeting where UOSH's incorporation of OSHA's rule regarding PPE (personal protective equipment) would be discussed. The Open Meeting is currently scheduled for March 12 at 2:00 pm.

Monica stated that the subcommittee would appreciate other people's input into the issue of uniforms.

Sherrie brought up that she is concerned that the Commission might have overstepped its directive as to how the uniform rule is currently written. She is going to work with Heather and Brent on this issue, which may resolve the whole issue of changing the uniform rule.

Sherrie thanked the council for their comments and guidance on legislative issues. She stated that she and Alan would now consider the recommendation of the tip rule change and prepared the final wording for Open Meeting discussion. She then adjourned the meeting at 1:10 pm.

Next Meeting – May 8, 2008